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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,056	07/31/2003	Michael S. Pazar	568/259	3596

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,056

Applicant(s)

PAZAR, MICHAEL S.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,16 and 87-110 is/are pending in the application.
- 4a) Of the above claim(s) 102-110 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12,16,87-98 and 100 is/are rejected.
- 7) ☒ Claim(s) 13,99 and 101 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/10/04 & 5/19/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendments filed 12/10/04 and 5/26/05 are objected to under 35 U.S.C. 132(a) because they introduce new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support in the specification for the "receptacle and cap not extending past an exposed outer surface of the vault". Applicant is required to cancel the new matter in the reply to this Office Action.

Withdrawal of Allowable Subject Matter

The indicated allowability of claims 87-98 and 100 is withdrawn in view of a more detailed review of the reference(s) to MARTIN. Rejections based on the newly cited reference(s) follow.

Election/Restrictions

Newly submitted claims 102-110 are directed to an invention that is independent or distinct from the invention elected in the response dated 6/04/04; wherein an apparatus for keeping records was elected without traverse.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 102-110 are withdrawn from consideration as being directed to a non-elected invention.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no support in the specification for the "receptacle and cap not extending past an exposed outer surface of the vault". Specifically page 3, of the specification details that the has an exposed end that is "easily" accessed; however, there is no indication that the receptacle and cap do not extend past an outer surface of the vault. Moreover, if the cap is "easily accessed" it could be argued that the receptacle and cap are required to be exposed in order to be accessed.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the receptacle and cap not extending past an exposed outer surface of the vault must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3,5,6,16,87-92 and 100 are rejected under 35 U.S.C. 102(b) as being unpatentable over US Patent #4,328,606 to NUNES in view of US Patent #2,075,859 to MARTIN. Regarding claims 1 and 87, NUNES discloses the use of a vault (1) having a receptacle (8) embedded therein and including a cap (9); wherein the receptacle (8) and cap (9) do not extend past an exposed surface of the outer surface of the vault (1) or are recessed with respect to an exposed outer surface of the vault (1). NUNES discloses the basic claimed apparatus except for explicitly indicating that his receptacle includes at least one archival media containing information concealed therein. MARTIN teaches that it is known in the art to provide a receptacle (12) with archival media containing information concealed therein, lines 18-23. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the receptacle of NUNES be capable of storing archival information, as taught by MARTIN. In reference to claims 2 and 88, the apparatus (1) is formed out of concrete, column 1, line 37. Regarding claims 3 and 89, as noted earlier, NUNES, as modified by

Art Unit: 3635

MARTIN teaches archival information about the deceased, lines 18-23. Although MARTIN is not explicit as to what information is provided. It would have been an obvious matter of design choice to one having ordinary skill in the art to provide the receptacle with whatever information so desired. The situation and the person being buried would dictate the information needed for display or needed to be provided therein. In reference to claims 5-6 and 90-92, the receptacle (8) and cap (9) are formed from a non-corrosive material that is glass or plastic material, column 2, line 16. Regarding claims 16 and 100, the receptacle (8) is cylindrical, column 1, line 61.

Claims 7-9 and 93-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,328,606 to NUNES in view of US Patent #2,075,859 to MARTIN, as applied to claim 1, and further in view of US Patent #4,697,316 to SEMON. In reference to claims 7,8,93 and 94, NUNES, as modified by MARTIN, discloses the basic claimed receptacle except for the use of seal or O-ring. SEMON teaches that it is known in the art to provide a receptacle with a seal (74) in the form of an O-ring between the receptacle (26,28) and the cap (30). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the receptacle of NUNES, as modified by MARTIN, with the O-ring seal of SEMON in order to provide a tight and secure grip between the cap and receptacle thereby preventing water or any other fluids from entering the receptacle and damaging its contents. Regarding claims 9 and 95, none of the aforesaid prior art discloses the use of a groove to receive the O-ring. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the receptacle with groove in order to ensure

Art Unit: 3635

that the O-ring doesn't slip thereby ensuring an even further tight fit between the cap and receptacle.

Claims 10-12 and 96-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,328,606 to NUNES in view of US Patent #2,075,859 to MARTIN, as applied to claim 1 above, and further in view of US Patent #6,463,703 to MATTIS. Regarding claims 10 and 96, NUNES, as modified by MARTIN, discloses the basic claimed receptacle except for the use of a sealing means and adhesive. MATTIS teaches that it is known in the art to provide a receptacle (18) with a sealing means (52,56,58) between the receptacle (18) and the cap (50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of NUNES, as modified by MARTIN, with the sealing means of MATTIS in order to ensure that the enclosed documentation is safe from deterioration from exposure to the external environment. In reference to claims 11 and 97, the sealing means is an adhesive (56). Regarding claims 12 and 98, MATTIS does not explicitly detail that his adhesive is an epoxy resin; however, it would have been obvious to one having ordinary skill in the art to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice.

Allowable Subject Matter

Claims 13,99 and 101 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments


Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
Art Unit 3635
8/15/05